3749.

SUPREME COURT OF THE UNITED STATES.

No. 83.

WILLIAM A. PLATENIUS, ADMINISTRATOR OF JAMES HOLFORD, DECEASED, PLAINTIFF IN ERROR,

vs.

THE STATE OF ARKANSAS.

IN ERROR TO THE SUPREME COURT OF THE STATE OF ARKANSAS.

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GIDEON, Print.

STATE OF ARKANSAS,
In the Supreme Court, ss.

Be it remembered, that at a supreme court of the State of Arkansas, begun and held at the court-house in the city of Little Rock, on the first Monday in January, A. D. 1856, before the honorable Elbert H. English, chief justice, and the Hon. Christopher C. Scott, judge of said court, on the 18th day of April, , were the following proceedings in the case of

WILLIAM A. PLATENIUS, as administrator ad colligendum of all and singular the goods and chattels, rights and credits, which were of James Holford, deceased, who died intestate, Plaintiff,
vs.
THE STATE OF ARKANSAS, Defendant.

} Writ of error to Pulaski circuit court.

Be it remembered, that heretofore, to wit, on the sixth day of September, A. D. 1855, the said plaintiff sued out of the office of the clerk of said supreme court a writ of error in said cause, which is as follows:

The State of Arkansas to the clerk of Pulaski county, in said State, greeting:

Because, in the record and proceedings, and also in the giving of judgment in a suit which was in the Pulaski circuit court, before the honorable John J. Clendenin, judge thereof, between William A. Platenius, as administrator ad colligendum of all and singular the goods and chattels, rights and credits, which were of James Holford, deceased, who died intestate, plaintiff, and The State of Arkansas, defendant, of a plea of covenant broken, manifest error has intervened, to the damage of the said plaintiff, as he alleges, you are therefore hereby commanded, that if final judgment be therein given, you send to the supreme court, under your official seal, the record and proceedings aforesaid, together with this writ, on the first day of the next term of said supreme court of said State, which will be held on the first Monday of January, A. D. 1856, at the court-house in the city of Little Rock, in said State, that the record and proceedings aforesaid being inspected by said supreme court, it may cause to be done therein what, according to law, ought to be done; and that you return this writ under your official seal.

Witness Luke E. Barber, clerk of said supreme court, who has hereunto set his hand as such clerk, and affixed the seal of said supreme court, at his office in the city of Little Rock, this sixth day of September, 1855, and of the independence of the United States the eightieth year.

[L. S.]

L. E. BARBER, *Clerk.*

[REC. LXXXIII, D. T., 1857.]—1

And at the same time said plaintiff sued out a writ of scire facias to hear errors, as follows:

The State of Arkansas to the sheriff of Pulaski county, in said State, greeting:

Because in the record and proceedings, and in the giving of judgment in a suit which was in the circuit court of said county of Pulaski, before the judge thereof, between William A. Platenius, as administrator ad colligendum of all and singular the goods and chattels, rights and credits, which were of James Holford, deceased, who died intestate, plaintiff, and the State of Arkansas, defendant, of a plea of covenant broken, as it is alleged by the said William A. Platenius, as such administrator, manifest error has intervened, to his great damage, and it being proper that such error, if any, should be corrected, and speedy justice done, you are therefore commanded to summon the said State of Arkansas, that she appear before the said supreme court of the State of Arkansas, at the court-house in the city of Little Rock, in said State, on the first day of the next term of said supreme court, which will be held on the first Monday of January, A. D. 1856, to respond to a writ of error issued in said case, and show cause, if any she have, why said judgment should not be reversed and altogether held for naught; and that you make due return of this writ.

Witness Luke E. Barber, clerk of said supreme court, who has hereunto set his hand as such clerk, and affixed the seal of said supreme court, at his office in the city of Little Rock, this sixth day of September, 1855, and of the independence of the United States the eightieth year.

[L. S.]

L. E. BARBER, *Clerk.*

And afterwards, to wit, on the 12th day of December, A. D. 1855, the clerk of said circuit court, to whom said writ of error was directed, made return thereof and filed the same in our said supreme court, duly certified as follows:

THE STATE OF ARKANSAS,
County of Pulaski, ss.

I, Gordon N. Peay, clerk of the circuit court of said county, do hereby certify, that in obedience to the mandate of the within writ, I have made a true and complete transcript of the record and proceedings had in said court in the case within mentioned, (except the several counts in the declaration omitted by the consent and direction of parties,) and the same is herewith returned, officially certified to the supreme court of the State of Arkansas.

In testimony whereof, I hereunto set my hand, and affix the seal of my office, this 29th day of September, A. D. 1855.

[L. S.]

GORDON N. PEAY, *Clerk.*

And attached to and filed with said writ of error is the transcript of the record of said circuit court in said cause, which is as follows:

Pleas before the honorable John J. Clendenin, judge of the Pulaski circuit court, on the 9th day of July, A. D. 1855, in the following entitled case, to wit:

WILLIAM A. PLATENIUS, as administrator of the estate of James Holford, dec'd, Plaintiff,
vs.
THE STATE OF ARKANSAS, Defendant.
} In covenant.

Declaration.

In the Pulaski Circuit Court, to December Term, A. D. 1854.

Wm. A. Platenius, as administrator ad colligendum of all and singular the goods and chattels, rights and credits, which were of James Holford, deceased, at the time of his death, who died testate, by attorney complains of the State of Arkansas, of a plea of covenant broken. For that whereas, heretofore, to wit, on the first day of July, A. D. 1838, at Little Rock, in said State of Arkansas, under and by virtue of the act of the general assembly of said State, entitled "An act to establish the Real Estate Bank of the State of Arkansas," approved the 26th day of October, A. D. 1836, and of the other act of said general assembly, entitled "An act to increase the rate of interest on the bonds issued to the Real Estate Bank of the State of Arkansas," approved the nineteenth day of December, A. D. 1837, and under the second section of said last mentioned act, and the 10th section of said first mentioned act, for the ends and purposes therein specified, to wit, to facilitate the said Real Estate Bank in the negotiation of a loan of two millions of dollars, to constitute the capital of said Real Estate Bank, the said State of Arkansas made and executed, and to the said Real Estate Bank of the State of Arkansas then there delivered, her certain bond and writing obligatory, dated the said first day of July, A. D. 1838, sealed with the great seal of said State, then thereto caused to be affixed by his excellency Sam. C. Roane, the governor of said State, signed by said governor and countersigned by William E. Woodruff, then the treasurer of said State, and which, with the endorsements thereon hereinafter mentioned, is now here to the court shown; and the caption whereof is as follows, that is to say: "United States of America, State of Arkansas—One thousand dollars. Arkansas State bond—£ stg. 225, No. 501, C. fcs.5,600.—Real Estate Bank of the State of Arkansas. Under an act of the general assembly of the State of Arkansas, entitled 'An act to establish the Real Estate Bank of the State of Arkansas,' approved October 26th, 1836, and an act supplementary thereto, entitled 'An act to increase the rate of interest on the bonds of the State issued to the Real Estate Bank of the State of Arkansas,' approved the 19th December, 1837;" to the payment of which bond and writing obligatory, by the said supplementary act of

assembly, the faith and credit of said State was irrevocably pledged; and thereby the said State of Arkansas then there acknowledged herself to be indebted to said Real Estate Bank of the State of Arkansas in the sum of one thousand dollars, and thereby covenanted that she would pay the said sum of one thousand dollars, in current money of the United States, to the order of the president, directors and company of said Real Estate Bank, on the twenty-sixth day of October, in the year of our Lord one thousand eight hundred and sixty-one; and also that she would pay half-yearly, on the first day of January, and the first day of July, in each year, interest on said sum of one thousand dollars at the rate of six per cent. per annum, at the place to be named in the endorsement on said writing obligatory, until the payment of said principal sum; which said writing obligatory being in law payable to the said Real Estate Bank of the State of Arkansas, and said covenants therein contained made with said bank by its description of the "President, Directors and Company of said Bank," the said Real Estate Bank afterwards, to wit, on the first day of July, A. D. 1838, by its endorsement on said writing obligatory then made in the first person by Anthony A. Davies, its president, and Richard D. C. Collins, its cashier, for value received, assigned, transferred and endorsed the said writing obligatory under and by virtue of the power by the 10th section of said act of assembly, establishing said Real Estate Bank, in the said president and cashier vested, to one Bates Cook, as comptroller of the State of New York, (he being then such comptroller,) and thereby directed the sum of money, and the instalments of interest therein mentioned, to be paid to him or to his order, or to his successors in said office of comptroller or to his assigns; and therein they did, by virtue of the act of assembly aforesaid, and the authority thereby to them given, fix the place at which the said principal and interest should be paid, to be in the city of London, (which was and is in the kingdom of Great Britain, beyond seas,) at the counting-house of Messrs. Frederick Huth & Co., in said city of London, and so made the said principal and interest to be there payable to the said Bates Cook, as such comptroller, his successors in office or assigns, at the rate of four shillings and sixpence sterling per dollar, or four dollars and forty-four cents per pound sterling; the said interest to be paid on presentation and delivery of certain dividend-warrants (or coupons) thereto annexed by said bank, being memoranda of the amount and time of payment of interest, and said principal to be paid on presentation and delivery of said bond on the day when it should become due, and then there delivered said bond, so endorsed, to said assignee. And the said Bates Cook, as such comptroller, afterwards, and in the lifetime of said James Holford, before the payment of any part or portion of the said principal or interest of the said bond, to wit, on the 27th day of February, A. D. 1840, by his endorsement then made by him as such comptroller, upon said bond signed by him, and the seal of his office thereto affixed, for value received, endorsed, transferred and assigned the said bond to the said James Holford, and then thereby directed the said principal and interest of said bond to be paid

to said James Holford according to the effect of the same, and of the endorsement thereof, without recourse on him; whereby the said James Holford became endorsee and assignee thereof, and the plaintiff is now the holder and owner of the same as such administrator as aforesaid. And the said plaintiff, in fact, saith, that the State of Arkansas hath not paid at said counting-house of said Frederic Huth & Co., in the city of London or elsewhere, the said several instalments of interest at the rate of six per centum per annum, which have become due and payable since the making of said writing obligatory, upon said sum of one thousand dollars, or two hundred and twenty-five pounds sterling, on the first day of July, in the year 1840, and upon the first day of January, and the first day of July, in each and every year thereafter, up to and including the present year 1854, to wit: the sum of thirty dollars, or six pounds fifteen shillings sterling, on each of those days, to the said Bates Cook, or to any other comptroller of the State of New York, his successor, or to said James Holford in his lifetime, or to the said plaintiff since the death of the said James Holford, or to any other holder of said bond or person authorized to receive the same, either upon those days or at any other time whatsoever, according to the form and effect of the said writing obligatory and covenant; and said endorsement thereof, or either of said sums, or any part of either, although often requested so to do. But the said State the said several sums of thirty dollars, or six pounds fifteen shillings sterling each, unto the said Bates Cook, or to any other comptroller, successor of said Bates Cook, or to said James Holford in his lifetime, or to the plaintiff since his death, or to any other holder of said bond, or person authorized to receive the same, at the end of the said respective terms, or ever as yet, in whole or in part to pay hath altogether omitted, neglected, and refused; nor hath she ever made any provision for the payment of any of said instalments, or ever had or placed any money at said place of payment, to pay and meet any of said instalments, nor hath any person nor said bank done it for her, nor ever been there ready to pay the same; so that it hath always been useless there to present any of said dividend warrants for payment, or to demand payment thereof, of any of said instalments of interest, against the form and effect of the said covenant and writing obligatory, and of the said endorsement thereof. And so the said plaintiff saith, that the said State of Arkansas, although often requested, hath not kept her said covenants, so by her made as aforesaid, but hath broken the same, and to keep the same with the said James Holford and with the plaintiff as such administrator hath hitherto wholly refused, and still doth refuse; nor hath paid the difference of exchange, nor any part thereof, on any one or more of said instalments of interest between Little Rock and the city of London in favor of London, as it hath since the making of said writing obligatory hitherto ever been.

[NOTE.—By agreement of attorneys the other counts in the declaration in this case are omitted in this transcript.]

By means of which said several breaches of said several covenants of the said State of Arkansas, the several counts of this declaration herein above alleged and assigned, the said plaintiff saith that he, as such administrator as aforesaid, is injured, and hath sustained damage to the sum of five hundred thousand dollars, and therefore in his capacity as such administrator as aforesaid sues, and he here brings into court an authenticated copy of the letters of administration ad colligendum of all and singular the goods and chattels, rights and credits which were of the said James Holford at the time of his death, and which letters were, after the death of the said James Holford, to wit, on the 20th day of May, A. D. 1854, granted to the plaintiff by the Honorable Alexander W. Bradford, surrogate, with probate jurisdiction of the county of New York, in the State of New York, one of the United States of America, in due form of law, and give sufficient evidence to the said court of the said grant of administration to the said plaintiff.

PIKE & CUMMINS,
Atto's for the Plaintiff.

Filed and summons issued to Pulaski county this 21st day of November, A. D. 1854.

GORDON N. PEAY, *Clerk.*

THE STATE OF ARKANSAS,
County of Pulaski, ss.

The State of Arkansas to the sheriff of Pulaski county, greeting:

You are hereby commanded to summon the State of Arkansas, if she be found within your bailiwick, to appear before the judge of our circuit court of Pulaski county, at the court-house in the county aforesaid, on the first day of our next June term, at a court to be holden on the first Monday of June, 1855, next, then and there to answer William A. Platenius, as administrator of James Holford, deceased, to a plea of covenant broken, to the damage of said plaintiff as such administrator of one million of dollars, and that you make due return of this writ to said court.

In testimony whereof, I have hereunto set my hand as clerk of said court, and affixed the seal of office this 20th day of November, A. D. 1854. [L. S.]

GORDON N. PEAY, *Clerk.*

Proceedings had 25th June, 1855.

This day comes the defendant, by her attorney, S. H. Hempstead, esq., and files her motion to require the plaintiff to file here in court the bonds sued on in this case.

Motion to file Bonds.

In Pulaski Circuit Court—June Term, 1855.

WILLIAM A. PLATENIUS, as adm'r of James Holford, dec'd,
vs.
THE STATE OF ARKANSAS.

The said State, by attorney, comes and moves the court to require the plaintiff to file the bonds referred to and mentioned in the declaration, according to the act of assembly approved 7th December, 1854, and that if the same are not filed, the suit be dismissed.

P. JORDAN, *Att'y Gen'l.*
S. H. HEMPSTEAD,
Special Attorney.

Filed 25th June, 1855.

G. N. PEAY, *Clerk.*

Proceedings had 9th July, 1855.

Judgment of Circuit Court.

WILLIAM A. PLATENIUS, as administrator of the estate of James Holford, deceased, Plaintiff,
vs.
THE STATE OF ARKANSAS, Defendant.
} In Covenant.

This day come said parties, by their respective attorneys, and the motion for a rule on the plaintiff to file here in court the bonds sued on in this case comes on to be heard, and is argued by counsel; and the court being now sufficiently advised thereon, doth sustain the same, and doth order and rule that said plaintiff do forthwith produce and file here in court the bonds mentioned and described in the declaration; and thereupon the plaintiff declines, and refuses to file said bonds.

It is therefore considered by the court that this suit be dismissed, and that the said defendant do go hence hereof without day, and recover against the said William A. Platenius, as administrator of the estate of James Holford, deceased, all of the costs by her about her defence in this behalf expended.

To which judgment of the court the plaintiff excepts, and on motion it is ordered that he have leave to present and file his bill of exceptions, in respect thereof, at a future day of this term.

Proceedings had 18th July, 1855.

This day comes said plaintiff, by attorney, and presents to the court here his bill of exceptions, which is now signed, sealed, filed, and ordered to form a part of the record of this case.

Bill of Exceptions.

In Pulaski Circuit Court—June Term, A. D. 1855.

ARKANSAS, *sct.*

WILLIAM A. PLATENIUS, as adm'r of James Holford, dec'd, vs. THE STATE OF ARKANSAS. } In Covenant.

Be it remembered, that on the ninth day of July, A. D. 1855, at this same term, the motion now here on file by the State to compel said plaintiff forthwith to file herein the bonds sued on in this cause, came up to be heard, and said plaintiff here in open court declines to file said bonds under the act of the legislature; whereupon the court forthwith, without requiring the State to plead or defend herein, sustained said motion and dismissed said cause. To which opinion and proceeding of the court in sustaining said motion and dismissing said cause, upon the facts appearing upon record herein and this bill of exceptions, which were the only facts or showing made or appearing herein, plaintiff excepted at the time, and had time given until now to prepare and tender his bill of exceptions in respect thereof, which accordingly he now presents, and prays the same may be signed, sealed, and made part of the record herein; which is so done at this same term, this 18th July, 1855.

Witness my hand and seal as judge.

JOHN J. CLENDENIN, [SEAL.]
Judge of Pul. Ct. Ct.

Filed 18 July, 1855.

PEAY, *Clerk.*

THE STATE OF ARKANSAS,
County of Pulaski, ss.

I, Gordon N. Peay, clerk of the circuit court of said county, do hereby certify that the annexed and foregoing eleven pages contain a true and complete transcript of the record and proceedings had in said court in the case therein mentioned, as the same remains in my office, (except the several counts in the declaration omitted by consent and direction of parties.)

In testimony whereof, I hereunto set my hand as such clerk, and affix the seal of said court, this 29th day of September, [L. S.] A. D. 1855.

GORDON N. PEAY, *Clerk.*

And afterwards, to wit, on the 5th day of January, A. D. 1856, the said sheriff, to whom the said writ of scire facias was directed, made return thereof, with the following endorsement thereon: Executed the within writ in the county of Pulaski, on the 18th day of September, A. D. 1855, by then and there delivering a true and perfect copy

hereof to Alexander S. Huey, auditor of public accounts State of Arkansas.

JNO. C. PEAY, *Sheriff.*
By J. F. JAMES,
Deputy Sheriff Pulaski County.

And afterwards, to wit, at a supreme court of the State of Arkansas, begun and held on said first Monday in January as aforesaid, on the 8th day of January were the following proceedings, to wit:

At this day comes said plaintiff, by his attorney, and on motion it is ordered that his assignment of errors be filed; and thereupon the same is filed.

Which said assignment of errors is in the following words: And the said plaintiff in error comes and says, that in the record and proceedings, and also in the giving of judgment in this case, there is manifest error in this, to wit: that by the record and proceedings aforesaid, it appears that the said circuit court, of the county of Pulaski, did dimiss the said suit of the said plaintiff in error, upon the motion of said defendant in error, because the said plaintiff in error refused to file in the office of the clerk of said court the bonds mentioned in said declaration, there to remain, and not to be withdrawn until the final determination of said suit, and the final payment of said bonds, and all interest thereon, which judgment of dismissal was so rendered by said court upon and in obedience to the order of the legislature of said State, contained in the act of the general assembly of said State, approved the 7th day of December, A. D. 1854, entitled "An act further to regulate the manner of bringing suits against the State," and which act is null and void, as being in conflict with and in violation of the Constitution of the United States, it being a law that impairs the obligation of the contracts and each of the contracts between the said State and the said plaintiff in error, evidenced by and contained in each of said bonds and the endorsement thereof, and also void as an usurpation by the legislature of judicial power. And there is also manifest error in this: that by the record and proceedings aforesaid, it appears that the judgment aforesaid, in form aforesaid given, was given and rendered in favor of said defendant in error against said plaintiff in error; whereas, by the law of the land, the same should have been rendered in favor of said plaintiff in error against said defendant in error: Wherefore, and for other errors in the record and proceedings aforesaid apparent, the said plaintiff in error prays that the judgment aforesaid, in form aforesaid given, may be reversed, annulled, and wholly held for nought, and that he may be restored to all things which he hath lost by occasion thereof.

And afterwards, to wit, on the 9th day of January of said term of our supreme court, were the following proceedings, to wit:

At this day comes said defendant, by her attorney, and on motion, it is ordered that her joinder in errors be filed; and thereupon, the same is filed. And at the same time comes said plaintiff, by his at-

torney, and this cause is submitted upon the briefs filed, and by the court taken under advisement.

Said joinder in errors is as follows: The defendant, by attorney, comes and says that in the record and proceedings, and judgment aforesaid, there are no errors as above alleged, and the State prays that the judgment may be in all things affirmed with costs.

S. H. HEMPSTEAD.

And afterwards, to wit, on the said 18th day of April, and at the said term of our supreme court, were the following proceedings, to wit:

This cause came on to be heard upon the transcript of the record of the circuit court of Pulaski county, and was argued by counsel, on consideration whereof it is the opinion of the court, that there is no error in the proceedings and judgment of said circuit court in this cause. It is therefore considered by the court, that the judgment of said circuit court in this cause rendered be, and the same is hereby, in all things affirmed with costs. It is further considered, that said defendant recover of said plaintiff all her costs in this court in this cause expended, and have execution thereof.

(NOTE.)—And afterwards, to wit, on the 10th day of November, A. D. 1856, the said plaintiff presented to the clerk of said supreme court a writ of error duly certified by the clerk of the circuit court of the United States for the eastern district of Arkansas, commanding him to certify the transcript of the record in this cause to the Supreme Court of the United States of America, and deposited in his office a copy of said writ for the defendant in said cause.

In testimony that the foregoing is a true copy of the record of said supreme court in said cause, (except the opinion of the court and briefs of counsel,) I, Luke E. Barber, clerk of said su-
[L. S.] preme court, have hereto set my hand and affixed the seal of said court, at my office, in the city of Little Rock, Arkansas, this 29th day of November, A. D. 1856.

L. E. BARBER, *Clerk.*

Writ of Error, No. 221.

UNITED STATES OF AMERICA, *ss.*

The President of the United States of America to the Judges of the Supreme Court of the State of Arkansas, greeting:

Because in the record and proceedings, and also in the rendition of a judgment, in a plea which is in the said supreme court, before you, upon error in an action of covenant between William A. Platenius, as administrator ad colligendum of the goods and chattels, rights and credits which were of James Holford, deceased, plaintiff, and the State of Arkansas, defendant, numbered on your docket 129, a manifest error hath intervened, and a law impairing the obligation of contracts hath been maintained as valid, to the great damage of the said William A. Platenius, as such administrator, as by his complaint appears; and it being fit that the error, if any there hath been, should be duly corrected, and

full and speedy justice done to the parties aforesaid in this behalf, you are therefore hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the first Monday of December next, in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right and according to the law and custom of the United States ought to be done.

Witness the Hon. Roger B. Taney, Chief Justice of the said Supreme Court of the United States, this tenth day of November, in the year of our Lord one thousand eight hundred and fifty-six, and of the independence of the United States the 81st year.

WM. FIELD, *Clerk*. [L. S.]
Per WM. H. CAUSIN, *D. C.*

STATE OF ARKANSAS,
In the Supreme Court, sct.

I, Luke E. Barber, clerk of the supreme court of the State of Arkansas, hereby certify to the Supreme Court of the *State of Arkansas*, that in obedience to the mandate of this writ, I have made out and certified a true copy of the record and proceedings in said cause as it is in our supreme court, and send the same, with this writ, as therein it is commanded.

In testimony whereof, I have hereunto set my hand and affixed the [L. S.] seal of said court, at my office, in the city of Little Rock, this 29th day of November, A. D. 1856.

L. E. BARBER, *Clerk*.

Citation, No. 221.

UNITED STATES OF AMERICA, *ss.*

To the State of Arkansas, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the first Monday of December next, pursuant to a writ of error filed in the office of the clerk of the supreme court of the State of Arkansas, wherein William A. Platenius, as administrator ad colligendum of the goods and chattels, rights and credits, which were of James Holford, deceased, is plaintiff, and the said State of Arkansas is defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned (in case numbered 129 of the docket of said supreme court of Arkansas) should not be corrected, and speedy justice done to the parties in that behalf.

Witness the Hon. Elbert H. English, chief justice of the supreme court of the State of Arkansas, this 10th day of November, in the year of our Lord one thousand eight hundred and fifty-six, and of the independence of the United States the 81st year.

E. H. ENGLISH.

STATE OF ARKANSAS, LITTLE ROCK.

I hereby certify, that I executed the within writ of citation in Pulaski county, aforesaid State, on the 12th day of November, A. D. 1856, by delivering a true and complete copy hereof to each of the following named persons, to wit: to Elias N. Conway, governor of the State of Arkansas, and Alex. S. Huey, auditor, and Thomas Johnson, attorney general.

Given under my hand, this 13th day of Nov., A. D. 1856.

JOHN QUINDLEY,
U. S. Marshal of the eastern district of Arkansas.
By HUGH BROGAN, *D. M.*

Marshal's fees $6 40.

Bond in Error, No. 221.

Supreme Court of the United States.

WILLIAM A. PLATENIUS, as administrator ad colligendum of the goods and chattels, rights and credits, which were of James Holford, deceased, Plaintiff,
vs.
THE STATE OF ARKANSAS, Defendant. } In Error.

Know all men by these presents, that we, Albert Pike and John Wassell, are held and bound unto the State of Arkansas in the sum of five hundred dollars, to the payment whereof, well and truly to be made, we bind ourselves, and our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this tenth day of November, A. D. 1856.

Whereas the above named William A. Platenius hath prosecuted a writ of error to the Supreme Court of the United States, to reverse the judgment rendered in the above entitled suit (being No. 129 on its docket) by the supreme court of the State of Arkansas: Now, therefore, the condition of this obligation is such, that if he shall, as such administrator, prosecute said writ of error to effect, and answer all costs if he shall fail to make good his plea, then this obligation is to be void, else to remain in full force.

ALBERT PIKE, [SEAL.]
JOHN WASSELL. [SEAL.]

Sealed and delivered in our presence:
W. W. ADAMS,
FRED. S. GARRITT.

The within bond is approved by me as good in form, the sum therein named as sufficient, and the obligors as perfectly good and responsible for the same, this 10th day of November, A. D. 1856.

E. H. ENGLISH, *Ch. J. Sup. Court Ark.*

3736.

Assignment of Errors, No. 221.

Supreme Court of the United States.

WILLIAM A. PLATENIUS, as administrator ad colligendum of the goods, &c., of Jas. Holford, deceased, Plaintiff,
vs.
THE STATE OF ARKANSAS, Defendant.
} In Error—Case 2d.

And the said plaintiff in error comes and says that in the record and proceedings, and also in the giving of judgment in this case, in the said supreme court of Arkansas, there is manifest error in this, to wit:

That, by the record and proceedings aforesaid, it appears that the said supreme court of the State of Arkansas did affirm the judgment of the circuit court of the county of Pulaski, which did dismiss the said suit in covenant of the said plaintiff in error, because he refused to file in the office of the clerk of said court the bonds mentioned in said declaration, there to remain and not to be withdrawn until the final determination of said suit, and the final payment of said bonds, and all interest thereon; which judgment of dismissal was so rendered by said circuit court, upon and in obedience to the order, mandate and edict of the defendant in error, contained in the act of her general assembly, approved the 7th day of December, A. D. 1854, entitled "An act further to regulate the manner of bringing suits against the State;" and which act was and is null and void, as being in conflict with, and in violation of, the Constitution of the United States, it being a law that impairs the obligation of the contracts and each of the contracts between the said State and the said plaintiff in error, evidenced by, and contained in, each of said bonds, and the endorsement of each in said declaration mentioned: so that in this there is such error as should be corrected by the Supreme Court of the United States.

And there is also manifest error in this: that, by the record and proceedings aforesaid, it appears that the judgment aforesaid, in form aforesaid given, was given and rendered in favor of the defendant in error by said supreme court of the State of Arkansas, against said plaintiff in error; whereas by the law of the land, and the Constitution of the United States, it should have been given against the defendant in error, and in favor of the plaintiff in error.

Wherefore, and for other errors in the record and proceedings aforesaid apparent, the plaintiff in error prays that the judgment aforesaid, in form aforesaid given, may be reversed, annulled, and wholly held for naught, and that he may be restored to all things which he hath lost by occasion thereof.

ALBERT PIKE,
Counsel for Pl. in Error.

Filed 29 Dec., 1856.